

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DARYL WISE,
et al.

Plaintiffs,

VS.

Sheriff JOHN R. LAYTON in his individual and official capacity,
et al.

Defendants.

1:12-cv-01169-RLY-DML

ENTRY ON PLAINTIFFS' MOTION TO STAY

Plaintiffs, Daryl and Erika Wise, filed this lawsuit alleging violations of due process arising out of their suspensions and terminations from the Marion County Sheriff's Office. Two months after filing the Complaint, Plaintiffs filed the present motion to stay the case pending the outcome of the felony criminal charges filed against them in state court. A stay of this case would preclude the court from ruling on the Defendants' pending motion to dismiss for failure to state a claim under FED. R. CIV. P. 12(b)(6).

Generally, a federal court should take no action which would interfere with an ongoing state criminal proceeding. *Younger v. Harris*, 401 U.S. 37 (1971). The issues raised by the Defendants' motion to dismiss are whether Plaintiffs have a property interest in their employment and, if so, whether the individual Defendants are entitled to qualified immunity for their actions. Whether Plaintiffs are guilty of the crimes alleged

and whether the Defendants' actions were justified by those alleged acts, for purposes of the motion to dismiss, are irrelevant to that determination. Accordingly, Plaintiffs' motion to stay (Docket # 19) is **DENIED**.

SO ORDERED this 17th day of April 2013.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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